

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States District Court
Southern District of Texas
FILED

MAY 13 2010

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff

v.

\$14,914.00 IN U.S. CURRENCY,

Defendant in rem.

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CIVIL ACTION NO. 4:10-cv-00965

**CLAIMANTS' ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S
VERIFIED COMPLAINT**

RAJAGOPALA PILLAI and KAMALA PILLAI ("Claimants"), by and through their attorney of record, file this Answer and Affirmative Defenses to Plaintiff's Verified Complaint for Forfeiture in Rem and respectfully state:

1. Claimant admit to the nature of the action in paragraph 1, but denies that Plaintiff is entitled to any relief under the action stated in paragraph 1.
2. Claimants admit as to Defendant in rem in paragraph 2.
3. Claimants admit as to jurisdiction and venue in paragraphs 3 and 4, respectively.
4. The alleged bases for forfeiture in paragraph 5 are legal conclusions and require no response, but in an abundance of caution, they are denied. Claimants did not have the *mens rea* required by 31 U.S.C. § 5316(a)(1)(A) or specified by 31 U.S.C. § 5324(c)(2), thus, Plaintiff's asserted right to forfeiture under 31 U.S.C. § 5317(c)(2) was not triggered as alleged.

5. Claimants admit they were destined for India as their final destination, but deny all other allegations in paragraphs 6 and 7.
6. Claimants deny that Plaintiffs are entitled to the relief requested in subparagraphs 8a, 8b, and 8c.

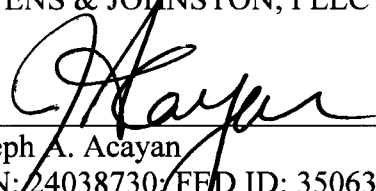
AFFIRMATIVE DEFENSES

7. The Plaintiff's attempt to forfeit the entire \$14,914.00 is contrary to the Excessive Fines Clause of the Eighth Amendment. A violation of the Clause requires the Court to immediately remit the defendant property to the Claimants. *United States v. Hosep Krikor Bajakajian*, 118 S. Ct. 2028 (1998).

WHEREFORE, the Claimants, Rajagopala Pillai and Kamala Pillai, respectfully request the Court to dismiss this cause of action; to order the immediate remission of the defendant property to the Claimants; to award reasonable attorneys fees and other litigation costs pursuant to 28 U.S.C. § 2465(b)(1)(A); and to award pre-judgment interest pursuant to 28 U.S.C. § 2465(b)(1)(C).

Executed on: May 10, 2010.

Respectfully submitted,
GIVENS & JOHNSTON, PLLC

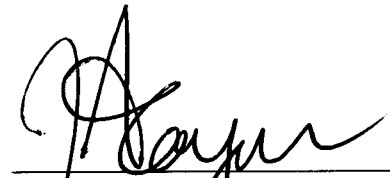
By 
Joseph A. Acayan
TBN: 24038730; FED ID: 35063
950 Echo Lane, Suite 360
Houston, Texas 77024
(713) 932-1540
(800) 285-8042
(713) 932-1542 (fax)

ATTORNEY FOR CLAIMANTS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Answer and Affirmative Defenses was mailed to Albert Ratliff, Assistant United States Attorney, on the 13th day of May, 20 10, at:

Albert Ratliff
U.S. Attorney's Office
P.O. Box 61129
Houston, Texas 77208



Joseph A. Acayan
Attorney for Claimants